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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/269,250	05/21/1999	ELSA AFRA, JULIA, MARIA GOULMY	2799/58994	9675

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12/06/2002

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NEW YORK, NY 10036

EXAMINER

SOUAYA, JEHANNE E

ART UNIT

PAPER NUMBER

1634

DATE MAILED: 12/06/2002

27

Please find below and/or attached an Office communication concerning this application or proceeding.

# Advisory Action

Application No.

09/269,250

Applicant(s)

Goulmy

Examiner

Jehanne Souaya

Art Unit

1634



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Oct 28, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attachment

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: none
- Claim(s) objected to: none
- Claim(s) rejected: 1-17 and 20
- Claim(s) withdrawn from consideration: 18 and 19
8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

Art Unit: 1634

### ATTACHMENT

1. The after final amendment filed October 28, 2002 will not be entered because the proposed claim amendments raise new issues and require further search and consideration. Specifically, the proposed amendment in claim 1 which recites "wherein said polymorphic nucleotides are detected in a regions of said allele *corresponding* to SEQ ID NOS 17 or 19 in, respectively, allele HA-1 // or allele HA-1R" raises new issues under 35 USC 112, first and second paragraphs. The recitation in claim 2 and 13 of "with a sequence as *shown in* SEQ ID NOS 17 and 19" or "comprising a sequence as *shown in*" raises new issues under 35 USC 112 first and second paragraphs. The recitation in claim 9 of "8 or positions" raises new issues under 35 USC 112, second paragraph as this recitation appears to occur twice in the claim. The recitation in claims 13, 20, and newly added claims 21 and 22 of "comprising" raises new issues under 35 USC 112, first paragraph under written description, and requires further searching with regard to 35 USC 102 and 103. Further, the recitation of 'typing of alleles of the minor histocompatibility antigen HA-1 *according to claim 1*' raises new issues under 35 USC 112, first and second paragraphs.

The response traverses the previous rejections with respect to the proposed non-entered claims, and therefore will not be addressed. The rejection of the pending claims made in the previous office action are maintained for the reasons already made of record.

It is noted that the proposed, non entered claim amendments would overcome the 35 USC 112, second paragraph rejection made in section 5 of the previous office action with regard to

Application/Control Number: 09/269,250

Page 3

Art Unit: 1634

claims 2, 4, and 9. However, the proposed claim amendments also raise new issues under 35 USC 112, second paragraph, as indicated above.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Jehanne Souaya whose telephone number is (703)308-6565. The examiner can normally be reached Monday-Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones, can be reached on (703) 308-1152. The fax phone number for this Group is (703) 305-3014.

Any inquiry of a general nature should be directed to the Group receptionist whose telephone number is (703) 308-0196.

*Jehanne Souaya*

Jehanne Souaya  
Patent examiner  
Art Unit 1634

12/2/02